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AUG 29 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 29, 2000

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Magalie Roman Salas, Secretary  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

RE: CC Docket No. 96-98  
CCB/CPD File No. 97-24  
Metrocall, Inc. v. BellSouth Telecommunications, Inc. et al.,  
File Nos. E-98-14 to E-98-18  
TSR Wireless LLC v. U S WEST Communications, Inc.  
File No. E-98-13

Dear Ms. Salas:

The purpose of this letter is to respond to the allegations made by TSR Wireless, LLC ("TSR") in its letter to the Federal Communications Commission ("Commission") filed on August 21, 2000 in the above-referenced dockets. TSR's claim that Qwest Corporation ("Qwest," formerly U S WEST Communications, Inc.) engaged in improper ex parte meetings with the Commission's staff is unfounded. Indeed, TSR's letter raises the same ex parte issues that were considered and rejected by the Commission in the Memorandum Opinion and Order in TSR Wireless, LLC, et al. v. U S WEST Communications, Inc., et al. released on June 21, 2000.<sup>1</sup> As the Commission confirmed in the Memorandum Opinion and Order, Qwest has the right to make ex parte presentations regarding the applicability of the Commission's reciprocal compensation rules to paging providers.<sup>2</sup>

On July 31, 2000, Qwest conducted two ex parte meetings with Commission staff from the Wireless Telecommunications Bureau and the Common Carrier Bureau. Qwest filed an ex parte notification the following day in accordance with the Commission's ex parte rules. As TSR acknowledges in its letter, the notification clearly stated that the purpose of the meetings was to discuss Qwest's implementation of the Memorandum Opinion and Order and to confirm that "Qwest is working quickly to implement both interim and long term changes to comply with this order, and has notified our existing paging service provider customers as to how we are

<sup>1</sup> See In the Matters of TSR Wireless, LLC, et al., v. U S WEST Communications, Inc., et al., File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, rel. June 21, 2000 ("Memorandum Opinion and Order").

<sup>2</sup> Id. ¶ 39.

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proceeding.”<sup>3</sup> Qwest’s notification made it abundantly clear that the discussions focused on Qwest’s *forward-looking* implementation of the Memorandum Opinion and Order for all its paging provider customers on an *industry-wide basis*. In other words, the discussions involved the general application of the Commission’s reciprocal compensation rules to paging providers as clarified in the Memorandum Opinion and Order -- the very issues which the Commission held should be subject to permit-but-disclose ex parte procedures.

Ignoring the content of Qwest’s notification, TSR instead claims that the meetings must have addressed “the damages and other relief to which TSR is entitled” in its complaint proceeding.<sup>4</sup> There is no basis for TSR’s claim. Indeed, TSR completely ignores Qwest’s express statement in the ex parte notification that its discussion with the staff “*did not in any way address th[e] specific complaint proceedings.*”<sup>5</sup> Qwest complied with the Commission’s February 11, 1999 Public Notice<sup>6</sup> by filing its ex parte notifications in the pending complaint proceedings, but no issues specific to the complaints were discussed. The decision-making personnel present at the July 31 meetings have been, and continue to be, involved in the pending rulemaking proceedings regarding the application of the Commission’s reciprocal compensation rules to paging providers. Thus, it was appropriate for Qwest to meet with these personnel to discuss its implementation of the Memorandum Opinion and Order for all of its paging provider customers.

Moreover, TSR’s letter raises the same tired allegations the Commission considered and rejected in the Memorandum Opinion and Order. On two prior occasions, TSR filed submissions claiming that Qwest violated the ex parte rules with respect to its complaint proceeding based on similar meetings between Qwest and the Commission’s staff. The Commission vindicated Qwest (then U S WEST) in the Memorandum Opinion and Order and rejected TSR’s claims, stating:

We conclude that [Qwest’s] presentations concerning general paging interconnection issues raised in the *Local Competition* proceeding, as well as the specific issue of the applicability of reciprocal compensation to paging providers were permissible. As [Qwest] observes, although the *Public Notice* expands the ability of the parties in the complaint proceedings to address the reciprocal

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<sup>3</sup> See letter from Richard S. Becker, Richard S. Becker & Associates, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 96-98, et al., dated Aug. 21, 2000 at 2.

<sup>4</sup> Id. at 3.

<sup>5</sup> See *ex parte* letter from Kenneth T. Cartmell, Qwest, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 96-98, et al., dated Aug. 1, 2000 at 1.

<sup>6</sup> See Public Notice, Ex Parte Procedures Established for Formal Complaints Filed by TSR Paging Against U S WEST (File No. E-98-13) and by Metrocall, Inc. Against Various LECs (File Nos. E-98-14-18), and for Petitions for Reconsideration of the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 13 FCC Rcd. 2866 (1998) (“Public Notice”).

Magalie Roman Salas, Secretary

August 29, 2000

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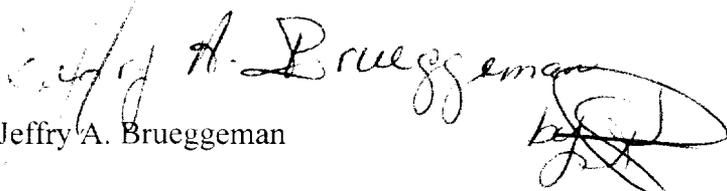
compensation issues by making them subject to permit-but-disclose procedures, the *Public Notice* made no change in the rights of the parties to make presentations on all other issues within the scope of the rulemaking proceeding on a permit-but-disclose basis.<sup>7</sup>

Despite the Commission's unambiguous holding, TSR has now raised the identical *ex parte* allegation against Qwest just two months after the release of the Memorandum Opinion and Order. Once again, there is no basis for TSR's interpretation of the Public Notice as prohibiting discussions regarding Qwest's implementation of the Memorandum Opinion and Order on an industry-wide basis.

The fact that the Commission's clarification of its paging reciprocal compensation rules in the Memorandum Opinion and Order will have industry-wide implications is undeniable. Therefore, it is imperative that Qwest continue to have the right to make presentations on issues relating to these reciprocal compensation rules.

Please do not hesitate to call if you have any questions.

Respectfully submitted,

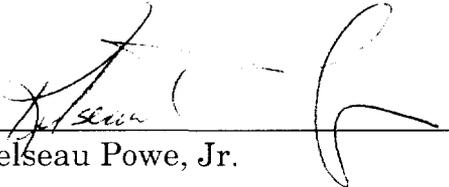
  
Jeffrey A. Brueggeman

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<sup>7</sup> Memorandum Opinion and Order ¶ 39 (footnote omitted).

**CERTIFICATE OF SERVICE**

I, Kelseau Powe, Jr., do hereby certify that on this 29<sup>th</sup> day of August, 2000, I have caused a copy of the foregoing ***EX PARTE OF QWEST CORPORATION*** to be served, via hand delivery, upon the persons listed on the attached service list.

  
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